

Department of State

§41.111

a consular officer shall collect or ensure the collection of a surcharge for the processing of applications for machine readable nonimmigrant visas and for machine readable combined border crossing cards in the amount specified by the Secretary of State from such applicants as the Secretary of State shall designate. Such surcharge is refundable only if, as a result of action taken by the U.S. Government for which the alien was not responsible and over which the alien had no control, the alien's application is not processed.

(2) Notwithstanding paragraph (e)(1) of this section, a consular officer shall collect or insure the collection of a processing fee for a machine-readable combined border crossing card and nonimmigrant visa in an amount determined by the Secretary and set forth in 22 CFR 22.1 to be sufficient only to cover the cost for manufacturing the combined card and visa if:

- (i) The alien is a Mexican citizen under the age of 15;
- (ii) The alien is applying in Mexico; and
- (iii) The alien has at least one parent or guardian who has a visa or is applying for a machine-readable combined border crossing card and visa.

[52 FR 42597, Nov. 5, 1987, as amended at 59 FR 25325, May 16, 1994; 63 FR 24108, May 1, 1998; 63 FR 52970, Oct. 2, 1998; 65 FR 52307, Aug. 29, 2000; 66 FR 17511, Apr. 2, 2001; 66 FR 38543, July 25, 2001; 67 FR 38893, June 6, 2002; 67 FR 66046, Oct. 30, 2002]

§41.108 Medical examination.

(a) *Requirements for medical examination.* An applicant for a nonimmigrant visa shall be required to take a medical examination if:

- (1) The alien is an applicant for a K nonimmigrant visa as a fiancé(e) of a U.S. citizen or as the child of such an applicant; or,
- (2) The alien is seeking admission for medical treatment and the consular officer considers a medical examination advisable; or,
- (3) The consular officer has reason to believe that a medical examination might disclose that the alien is medically ineligible to receive a visa.

(b) *Examination by panel physician.* The required examination, which must be carried out in accordance with

United States Public Health Service regulations, shall be conducted by a physician selected by the alien from a panel of physicians approved by the consular officer or, if the alien is in the United States, by a medical officer of the United States Public Health Service or by a contract physician from a list of physicians approved by the DHS for the examination of INA 245 adjustment of status applicants.

(c) *Panel physician facility requirements.* A consular officer may not include the name of a physician on the panel of physicians referred to in paragraph (b) of this section unless the physician has facilities to perform required serological and X-ray tests or is in a position to refer applicants to a qualified laboratory for such tests.

Subpart K—Issuance of Nonimmigrant Visa

§41.111 Authority to issue visa.

(a) *Issuance outside the United States.* Any consular officer is authorized to issue regular and official visas. Diplomatic visas may be issued only by:

(1) A consular officer attached to a U.S. diplomatic mission, if authorized to do so by the Chief of Mission; or

(2) A consular officer assigned to a consular office under the jurisdiction of a diplomatic mission, if so authorized by the Department or the Chief, Deputy Chief, or Counselor for Consular Affairs of that mission, or, if assigned to a consular post not under the jurisdiction of a diplomatic mission, by the principal officer of that post.

(b) *Issuance in the United States in certain cases.* The Deputy Assistant Secretary for Visa Services and such officers of the Department as the former may designate are authorized, in their discretion, to issue nonimmigrant visas, including diplomatic visas, to:

(1) Qualified aliens who are currently maintaining status and are properly classifiable in the A, C-2, C-3, G or NATO category and intend to reenter the United States in that status after a temporary absence abroad and who also present evidence that:

- (i) They have been lawfully admitted in that status or have, after admission, had their classification changed to that status; and